



*Law*

**FRAUD REMEDIES PROGRAM**

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**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction establishes policy and procedures to follow in implementing the United States Transportation Command (USTRANSCOM) fraud remedies program. Send comments and suggested improvements to this publication on Air Force (AF) Form 847, *Recommendation for Change of Publication*, to the Office of the Staff Judge Advocate (TCJA).

**1. References and Supporting Information.** Applicable statutes and regulations are at Attachment 1.

**2. Policy.** It is the policy of USTRANSCOM to prevent fraud and promote integrity in performance of its missions. When fraud is detected, it is USTRANSCOM policy to coordinate criminal, civil, contractual, administrative, and other remedies as part of a comprehensive effort to repair the damage to the Government and deter future fraud.

**3. General.** Fraud usually involves a misrepresentation or omission of a material fact with the intent to deceive. Fraud often involves deception or trickery or some state of mind that involves reckless disregard for the truth or deliberate ignorance of the truth. Fraud can result in misuse or waste of taxpayer dollars, provision of substandard products or services, and degradation or jeopardy of the safety and success of Department of Defense (DOD) personnel and missions.

**3.1.** USTRANSCOM employees should be alert for indicators of fraud. The existence of an indicator of fraud does not mean that actual fraud exists or can be proven to exist. However, the existence of a fraud indicator may warrant additional action to guarantee the integrity of Command functions, prevent future fraud, or investigate a situation in greater detail.

**3.2.** Indicators of fraud can be found on the TCJA web site under the *Acquisition Law* tab. The list addresses fraud by both contractors and USTRANSCOM employees. Periodic training can improve USTRANSCOM's ability to identify indicators of fraud.

**4. Roles.** Various personnel play different roles in preventing, detecting, and remedying fraud.

**4.1.** In accordance with this instruction, employees shall identify and report indicators of fraud and actual fraud through appropriate command channels. USTRANSCOM employees are

required to cooperate with TCJA, TCIG, investigators, auditors, the Department of Justice (DOJ), and others involved in preventing, detecting, and remedying fraud.

**4.2.** Investigators respond to reports of indicators of fraud or initiate independent efforts to establish evidence of the existence or absence of fraud. Investigators support every form of remedy for fraud.

**4.3.** DOJ oversees criminal prosecutions and represents the Government in civil actions to recover money, collect fines/damages/penalties, and achieve other remedies involving those who commit fraud. DOJ represents the Government in Federal Courts.

**4.4.** In addition to supporting investigators, prosecutors, and other Government personnel, USTRANSCOM takes appropriate action to suspend or debar fraudulent contractors and individuals, takes appropriate administrative action against fraudulent employees, asserts appropriate contractual remedies for fraud, and participates in comprehensive coordination of fraud remedies.

## **5. Responsibilities.**

**5.1.** TCJA is responsible for the following:

**5.1.1.** Administer the USTRANSCOM fraud remedies program coordinating all fraud remedies for the Command, and serve as the liaison to persons or organizations, both inside and outside USTRANSCOM, involved in detecting, preventing, and remedying fraud.

**5.1.2.** Forward indicators of fraud or allegations of criminal misconduct to investigative agencies, as appropriate; provide timely advice and support to investigative agents throughout the investigation (including collection of evidence, assessment of evidence, and identification and coordination of all applicable remedies); and ensure the confidentiality of investigative information.

**5.1.3.** Provide timely advice and support to DOJ throughout all phases of an investigation, prosecution, or civil suit; assist with litigation strategy, discovery, motions, and trial practice; provide recommendations concerning the initiation, settlement, or abandonment of litigation; and protect the confidentiality of DOJ information.

**5.1.4.** Provide timely advice and support for administrative remedies, including support to the appropriate Suspending/Debaring Official (SDO), officials collecting a debt, officials pursuing a personnel action, etc.

**5.1.5.** Provide timely advice and support to contracting officers, transportation officers, and others involved in pursuing contractual remedies for fraud.

**5.1.6.** Develop and keep current a fraud remedies plan, as appropriate, for achieving the coordination of all remedies for fraud.

**5.1.7.** Facilitate or provide periodic education and training of USTRANSCOM personnel regarding the detection, prevention, and remedying of fraud.

**5.2.** Inspector General is responsible for the following:

**5.2.1.** Acts as the office of primary responsibility (OPR) for Fraud, Waste, and Abuse (FWA) allegations and inquiries that are not resolved thru normal supervisory or management action.

**5.2.2.** Investigate and report allegation of FWA in accordance with DODI 5106.05 and USTRANSCOM Policy Directive 90-6.

**5.3.** Directors and supervisors are responsible for the following:

**5.3.1.** Report all indicators of fraud or allegations of actual fraud to TCJA or TCIG, encourage the identification of indicators of fraud, and keep TCJA informed of any new developments (including new information, contacts by investigators or others outside the Command, or anticipated actions) in a specific case. Although fraud indicators and allegations of fraud may be referred directly to investigative agencies, TCJA must be advised of the referral.

**5.3.2.** Ensure confidentiality of information related to a fraud investigation or fraud matter, including coordinating in advance a proposed release of information or inquiry related to a fraud matter with TCJA, as appropriate.

**5.3.3.** Provide timely advice and support (including preservation of, and access to, information in any format, access to personnel, etc.) to TCJA, investigators, prosecutors, contracting officials, auditors, personnel officials, and others with a role in fraud matters.

**5.3.4.** Contact TCJA for advice regarding any situation, decision, or action that raises any question or uncertainty regarding the execution of a comprehensive, coordinated fraud remedies plan.

**5.3.5.** Make employees available, upon request, to receive annual education and training provided by, or facilitated by, TCJA regarding the detection, prevention, and remedying of fraud.

**5.4.** USTRANSCOM employees are responsible for the following:

**5.4.1.** Identify indicators of fraud, report all indicators of fraud or allegations of actual fraud through appropriate command channels, and keep TCJA informed of any new developments (including new information, contacts by investigators or others outside the Command, or anticipated actions) in a specific case. Although allegations of fraud may be referred directly to investigative agencies, TCJA must be made aware of the referral in order to fulfill its responsibility under this instruction.

**5.4.2.** Ensure confidentiality of information related to a fraud investigation or fraud matters, including coordinating, in advance, a proposed release of information or inquiry related to a fraud matter with TCJA, as appropriate.

**5.4.3.** Provide timely advice and support (including the retention and provision of information in any form) to TCJA, investigators, prosecutors, contracting officials, auditors, personnel officials, and others with a role in fraud matters.

**5.4.4.** Contact TCJA for advice regarding any situation, decision, or action that raises any question or uncertainty regarding the execution of a comprehensive, coordinated fraud remedies plan.

**6. Procedure.** Reports of indicators of fraud, or allegations of actual fraud, shall be reported through command channels to the Staff Judge Advocate or Deputy Staff Judge Advocate. Thereafter, ongoing communications with TCJA regarding matters covered by this Instruction will generally involve a fraud point of contact (POC) or other assigned TCJA attorney.

RONALD A. RODGERS  
Colonel, USAF  
Staff Judge Advocate

Attachments:

1. Statutes and Regulations
2. Fraud Reporting Resources

Attachment 1

**Statutes and Regulations**

**Civil Fraud Statutes**

31 U.S.C. § 3729-3733, *False Claims*

28 U.S.C. § 2514, *Forfeiture of Fraudulent Claims*

10 U.S.C. § 2306a, *Cost or Pricing Data: Truth in Negotiations (TINA)*

10 U.S.C. § 2324h, *Allowable Costs Under Defense Contracts (Certification Requirements)*

10 U.S.C. § 2307(e), (i), *Contract Financing (Suspension of payments)*

41 U.S.C. § 604, *Contract Disputes Act, Fraudulent Claims*

41 U.S.C. § 423, *Procurement Integrity Act*

10 U.S.C. § 2533a, *Berry Amendment*

15 U.S.C. § 7264a, *Code of Ethics for Senior Financial Officers (Sarbanes-Oxley Act 2002)*

15 U.S.C. § 646-650, *Aid to Small Businesses*

31 U.S.C. § 3713, *et seq.*, *Priority of Government Claims in Bankruptcy*

31 U.S.C. § 3801, *et seq.*, *Program Fraud Civil Remedies Act*

**Criminal Fraud Statutes**

18 U.S.C. § 1001, *False Statements Act*

18 U.S.C. § 287, *False, Fictitious or Fraudulent Claims*

18 U.S.C. § 494, *Contractors' Bonds, Bids and Public Records (Falsification of)*

18 U.S.C. § 201, *Bribery of Public Officials and Witnesses*

18 U.S.C. § 1505, *Obstruction of Proceedings Before Departments, Agencies, and Committees*

18 U.S.C. § 1516, *Obstruction of Federal Audit*

**Attachment 1**

18 U.S.C. § 152, *Concealment of assets; false oaths and claims; bribery*

18 U.S.C. § 1341, *Frauds and Swindles (Mail Fraud)*

18 U.S.C. § 1343, *Fraud by Wire, Radio or Television (Wire Fraud)*

18 U.S.C. § 201-208, *Bribery, Graft and Conflicts of Interest*

18 U.S.C. § 1905, *Disclosure of Confidential Information (Trade Secrets Act)*

18 U.S.C. § 1832, *Theft of Trade Secrets*

18 U.S.C. § 641, *Public Money, Property or Records (Theft, Embezzlement or Destruction of)*

41 U.S.C. § 51-58, *Anti-kickback Act*

15 U.S.C. § 1, *Sherman Antitrust Act*

18 U.S.C. § 371, *Conspiracy to Commit Offense or to Defraud the United States*

18 U.S.C. § 286, *Conspiracy to Defraud the Government with Respect to Claims*

18 U.S.C. § 38, *Fraud Involving Aircraft or Space Vehicle Parts in Interstate or Foreign Commerce*

18 U.S.C. § 1031, *Major Fraud Against the United States*

18 U.S.C. § 1961, *et seq.*, *Racketeer Influenced and Corrupt Organizations (RICO)*

18 U.S.C. § 2314, *Transportation of Stolen Goods, Securities, Moneys*

18 U.S.C. § 1956-1957, *Laundering of Monetary Instruments*

**Regulations**

FAR 3 and DFARS 203, *Improper Business Practices and Personal Conflicts of Interest*

FAR 9 and DFARS 209, *Contractor Qualifications*

DOD Directive 7050.5, *Coordination of Remedies for Fraud and Corruption Related to Procurement Activities*

**Attachment 1**

DOD Instruction 5106.05, *Combatant Command Inspectors General -- Implementing Procedures*

DOD Instruction 5505.2, *Criminal Investigations of Fraud Offenses*

DOD Directive 7600.02, *Audit Policies*

DOD Instruction 7600.6, *Audit of Nonappropriated Fund Instrumentalities and Related Activities*

DOD Directive 7600.10, *Audits of States, Local Governments, and Non-Profit Organizations*

USTRANSCOM Instruction 90-5, *Individual, Congressional, and Inspector General (IG) Protected Communications*

USTRANSCOM Instruction 90-6, *Fraud, Waste, and Abuse (FWA) Prevention and Detection Program*

USTRANSCOM Instruction 90-1, *Functions of the Inspector General*

**Attachment 2****Fraud Reporting Resources****Hot Line Numbers**

USTRANSCOM Inspector General  
1.618.229.1781

Department of Justice  
1.800.869.4499

Department of Defense Inspector General  
1.800.424.9098  
hotline@dodig.mil/hotline